

Department of Energy

970.0370-1

second dash may follow the DEAR subsection number. As applicable, numbers to the right of the second dash represent subordinate subsections.

(3) To the extent practicable, the subpart number corresponds with the FAR part which contains related coverage, and the section number corresponds with the FAR subpart which contains related coverage (*e.g.*, the coverage contained in DEAR 970.0309 corresponds with material contained in FAR 3.9).

(4) Where the FAR does not contain related coverage on a particular subject, the DEAR section number will be numbered using numbers of 70 and up (*e.g.*, 970.0370).

(b) *Special Note Regarding Clause Numbering.* The section number for clauses prescribed in part 970 are numbered to correspond with the subpart in which the clause is prescribed (*e.g.*, 970.5203-1 is prescribed for use at subpart 970.03).

Subpart 970.03—Improper Business Practices and Personal Conflicts of Interest

970.0309 Whistleblower Protection of Contractor Employees.

970.0309-1 Applicability.

The contracting officer shall refer to 48 CFR subpart 903.9 regarding the applicability of the DOE Employee Protection Program to management and operating contracts.

970.0370 Management Controls and Improvements.

970.0370-1 Policy.

(a) Management and operating contractors shall develop and maintain systems of management and quality control to discourage waste, fraud and abuse; and to ensure that components, products, and services that are provided to DOE satisfy the contractor's obligations under the contract.

(b) As a part of the required overall management structure, the contractor must maintain management control systems which, in compliance with the requirements of the clause at 48 CFR 970.5203-1:

(1) Are documented and satisfactory to DOE;

(2) Ensure that all levels of management are accountable for effective management systems and internal controls within their areas of assigned responsibility;

(3) Cover both programmatic and administrative functions;

(4) Provide reasonable assurance that Government resources are safeguarded against theft, fraud, waste, and unauthorized use;

(5) Promote efficient and effective operations;

(6) Ensure that all obligations and costs incurred are in compliance with the intended purposes and the terms and conditions of the contract;

(7) Properly record, manage, and report all revenues, expenditures, transactions and assets;

(8) Maintain financial, statistical and other reports necessary to maintain accurate, reliable, and timely accountability and management controls;

(9) Are periodically reviewed to ensure that the systems provide reasonable assurance that the objectives of the system are being accomplished and that these controls are working effectively;

(10) Are in accordance with the Comptroller General's standards for internal controls, as set forth in the General Accounting Office Policy and Procedures Manual For Guidance To Federal Agencies, (Oct 1984), as amended.

(c) Management and operating contractors shall also develop and maintain a baseline program of quality assurance that will implement documented performance and quality standards, and management controls and assessment techniques to ensure components, services, and products meet DOE's, design criteria and other governing and applicable specifications.

(d) DOE expects all its contractors to seek to identify improvements in any aspect of performance. Management and operating contracts are very large and complex; therefore, the opportunities to identify changes in performance that will increase the effectiveness or efficiency of contract performance are more prevalent than under other contracts. The clause at 48 CFR 970.5203-2 requires DOE management and operating contractors to affirmatively seek to identify, evaluate, and institute,

where appropriate, processes that will improve the effectiveness or efficiency of any aspect of contract performance. It further requires the contractor to communicate any such improvements to DOE, other management and operating contractors, and DOE major facilities contractors. The contractor is required to participate in efforts by those contractors to address common problems or the institution of improvements. It allows the contractor to enlist the aid of the DOE contracting officer where necessary to institute or communicate the improvements. The obligations under the clause in no way affect the contractor's obligations under other provisions of the contract to notify or acquire the approval of the contracting officer.

970.0370-2 Contract clause.

(a) The contracting officer shall insert the clause at 970.5203-1, Management Controls, in all management and operating contracts.

(b) The contracting officer shall insert the clause at 970.5203-2, Performance Improvement and Collaboration, in all management and operating contracts.

970.0371 Conduct of employees of DOE management and operating contractors.

970.0371-1 Scope of section.

This section establishes the policies for maintaining satisfactory standards of conduct on the part of individuals employed by DOE management and operating contractors.

970.0371-2 Applicability.

The policies in this section are applicable to all DOE management and operating contractors.

970.0371-3 Definition.

Employees, as used in this section, are defined to mean individuals employed by the contractor, both full and part-time, who are assigned to work under a DOE management and operating contract.

970.0371-4 Gratuities.

Employees of a management and operating contractor shall not, under cir-

cumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, accept any gratuity or special favor from individuals or organizations with whom the contractor is doing business, or proposing to do business, in accomplishing the work under the contract. Reference is made to the requirements prescribed in 48 CFR 3.502.

970.0371-5 Use of privileged information.

Management and operating contractor employees shall not use privileged information for personal gain, or make other improper use of privileged information which is acquired in connection with their employment on contract work. For the purposes of this subsection, the term "privileged information" includes but is not limited to, unpublished information relating to technological and scientific developments; medical, personnel, or security records of individuals; anticipated materials' requirements or pricing action; possible new sites for DOE program operations; internal DOE decisions; policy development; and knowledge of selections of contractors or subcontractors in advance of official announcement.

970.0371-6 Incompatibility between regular duties and private interests.

(a) Employees of a management and operating contractor shall not be permitted to make or influence any decisions on behalf of the contractor which directly or indirectly affect the interest of the Government, if the employee's personal concern in the matter may be incompatible with the interest of the Government. For example: An employee of a contractor will not negotiate, or influence the award of, a subcontract with a company in which the individual has an employment relationship or significant financial interest; and an employee of a contractor will not be assigned the preparation of an evaluation for DOE or for any DOE contractor of some technical aspect of the work of another organization with which the individual has an employment relationship, or significant financial interest, or which is a competitor